WP(C) 1679/2000
BEFORE
THE HON'BLE MR JUSTICE T.N.K. SINGH
JUDGMENT AND ORDER(ORAL)

1. In spite of giving ample opportunity to the respondent No.2 , the Gauhati Municipal Corporation to file affidavit-in-opposition in the prese nt writ petition, till date the respondent No.2 has not filed any affidavit-in-o pposition.

2. Taking into consideration of the nature of this case, this Court is of the considered view, that there is no point in lingering the present writ petition.

3. The short fact of the petitioner' s case in the present writ pe tition is that in the year 1945 a Charitable Trust under the name and style Guw ahati Public Hospital Trust was established by duly executing a Deed on 13th Au gust, 1945 at Guwahati. The main objects of the said Trust was to establish and maintain a modern and upto date hospital at Guwahati for maternity and child wel fare with facilities for training of nurses and midwives. It is stated that the said Trust purchased a plot of land covered by P.P. No. 121 and Dag Nos. 517 a nd 528 measuring about 3 bighas in total, along with a C.I. sheeted pucca house thereon. The said plot of land is situated in the Sarania Village, Mouza Panbari in the district of Kamrup.

4. After purchasing the said plot of land by the said Trust, due to non-availability of required fund to establish and run a well equipped maternity hospital, the said Trust decided to look for an alternative arrangement. Later on under a resolution of the Board of Trust decided to hand over the said plot of land to the Government of Assam, Medical Department for opening a child welfa re and training center with the condition that the said plot of land and buildin gs constructed thereon could not be used for any other purpose(s) and it shall b e reverted back to the said Trust.

5. The State Government entrusted the management of the said plot o f land and buildings for the said Trust to the Gauhati Medical College. The Gauh ati Medical College used the said plot of land and buildings constructed thereon initially for Gynecology Department and later on as an out door clinic of the Obstetrics and Gynecology. Later on it was used for accommodating Doctors and the Nurses. The said Trust under his letter dated 18.12.74 requested the Gov ernment to hand over the said land and buildings constructed thereon to the said Trust. To make alternative arrangements to maintain and run the maternity home and child welfare center. Thereafter the Honorary Secretary of the said Trust a ddressed a letter dated 28.11.78 to the Hon'ble Minister, Health & Family Planni ng, Govt of Assam to hand over possession of the said land and buildings constr ucted thereon. It is stated that the petitioner Trust also developed the buildi ngs which was in a dilapidated state and also constructed a new house i.e. two s toried building on the said plot of land.

6. On 13.6.95, the officials of the petitioner Trust were furnished with two notices, (i) notice issued by the Deputy Commissioner, Kamrup (Land Ac quisition Branch) stating that the said building belonging to the petitioner Tru st was requisitioned by the District Administration for the Kamrup District Rura l Development Agency w.e.f from 29.5.85. (ii), that the second notice stating th at the building has been taken over.

7. The further case of the petitioner is that the District Administ ration for the Kamrup District Rural Development Agency cannot requisition the s aid buildings belonging to the petitioner Trust alleging that the same belongs t o the authorities of the Gauhati Medical College. Ultimately, the Deputy Commiss

ioner, Kamrup under his letter dated 16.12.95 informed the Commissioner, Gauhati Municipal Corporation, Guwahati that there is no record regarding the requisition of the said land and buildings constructed thereon belonging to the petitioner Trust and in such a situation, the Gauhati Municipal Corporation had been informed to vacate the said land and buildings.

8. It is stated that no action was taken up by the Gauhati Municipal Corporation in pursuance of the said letter of the Deputy Commissioner, Kamrup dated 16.12.95. Hence, the present writ petition for a direction to the Gauhati Municipal Corporation to vacate the said two storied building and hand over the possession of the same to the petitioner Trust in terms of the order dated 16.12.95 issued by the Deputy Commissioner, Kamrup.

9. As stated above, the Gauhati Municipal Corporation has not filed any affidavit-in-opposition. In course of hearing the learned Standing Counsel appearing for the Gauhati Municipal Corporation submits that there is disputed question of fact in the present writ petition. This Court is not accepting his submission, inasmuch as, there cannot be any disputed question of fact while the statement of the petitioner in the writ petition is not denied by filing affidavit-in-opposition by the respondent No.2 i.e. Gauhati Municipal Corporation.

10. In the above factual background, this writ petition is disposed of by directing the respondent No.2, Gauhati Municipal Corporation to take necessary steps in pursuance of the said letter of the Deputy Commissioner, Kamrup dated 16.12.95 as expeditiously as possible, preferably within a period of 4(four) months from the date of receipt of the certified copy of this judgment and order to be submitted by the petitioner to the respondent No.2, Gauhati Municipal Corporation along with a copy of the said letter of the Deputy Commissioner, Kamrup dated 16.12.95 for compliance.

11. With the above observations and directions, this writ petition is disposed of.